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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/062,541      | 02/05/2002  | Yukari Terada        | 2018-505            | 3455             |

7590

08/09/2002

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EXAMINER

TRAN, DENISE

ART UNIT

PAPER NUMBER

2186

DATE MAILED: 08/09/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/062,541

Applicant(s)

TERADA ET AL.

Examiner

Denise Tran

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 February 2002.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 22-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 22-31 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☒ Certified copies of the priority documents have been received in Application No. 08/934,220.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                             | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

### **DETAILED ACTION**

1. Claims 22-31 are presented for examination.
2. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 22-24, drawn to a control unit comprising: a rewrite control program receiver and a communication speed changer and a rewrite control program including a communication speed change section, including a communication speed change instruction classified in class 710 subclasses 305 and 60; and class 717 subclass 169.
  - II. Claims 25-26, drawn to a control unit for a vehicle, comprising a processor that is programmed to receive a new control data from a rewriting device, classified in class 712, subclass 37 and class 701 subclass 35.
  - III. Claims 27-29, drawn to a rewriting device for a control unit which rewrite vehicle control data, comprising; a memory and a processor for controlling communication with the control unit, classified in class 701, subclass 33 and class 709 subclass 208.
  - IV. Claims 30-31, drawn to a method of communication between a control unit and an external device, comprising: changing a baud rate of data communication of the external device, storing a rewrite control program from the external device to a volatile memory of the control unit, and executing the rewrite control program by the control unit to rewrite stored

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in a non volatile memory, classified in class 711, subclasses 103 and 147;  
and class 709, sub class 233.

3. Inventions I and II, III, IV are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I has separate utility such as in a system that lacked the control unit for a vehicle having a processor that is programmed to received a new control data from a rewriting device and rewrites the control data stored in a nonvolatile memory particulars; the rewriting device for a control unit which rewrites vehicle control data, having the memory and the processor for controlling communication with the control unit particulars; changing a baud rate of data communication of the external device, storing a rewrite control program in a volatile memory of the control unit, and executing the rewrite control program by the control unit to rewrite data stored in a non volatile memory particulars of the other sucombinations. See MPEP § 806.05(d).

4. Inventions II and III are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention II has separate utility such as in a system which lacked the rewriting device having the memory and the processor for controlling communication with the control unit particulars. See MPEP § 806.05(d).

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5. Inventions IV and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the combination could be used with the method claimed in claims 30-31 which does not have the control unit comprising a processor programmed to receive the new control data. The subcombination has separate utility such as in the system in claims 25-26 which does not having a step of changing a baud rate of data communication of an external device.

6. Inventions IV and III are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the combination could be used with the method claimed in claims 30-31 which does not have a rewriting device for a control unit which rewrites vehicle control data, comprising a memory and a processor for controlling communication. The subcombination has separate utility such as in the system in claims 27-29 which does not have a step of storing the rewrite control data in

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a volatile memory of the control unit and executing the rewrite control program by the control unit to rewrite data stored in a nonvolatile memory.

7. Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Groups II-IV, restriction for examination purposes as indicated is proper.

8. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

9. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

10. A telephone call was made to Raymond Mah on 7-31/02 to request an oral election to the above restriction requirement, but did not result in an election being made.

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Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement is traversed (37 CFR 1.143).

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Denise Tran whose telephone number is (703) 305-9823. The examiner can normally be reached on Monday, Thursday, and an alternate Wednesday from 8:30 a.m. to 6:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matt Kim can be reached on (703) 305-3821. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 7467-239 for Official communications, (703) 746-7240 for Non Official communications, and (703) 746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Denise Tran



08/2/02